

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 21, 2005

IN RE:

**PETITION FOR EXPEDITED REVIEW OF GROWTH
CODE DENIAL BY THE NUMBER POOLING
ADMINISTRATOR RELATING TO THE NASHVILLE
RATE CENTER**

)
)
)
)
)
)

**DOCKET NO.
05-00245**

**ORDER APPROVING PETITION FOR
EXPEDITED REVIEW OF CENTRAL OFFICE CODE DENIAL
AND REVERSING CENTRAL OFFICE CODE DENIAL**

This matter came before Chairman Ron Jones, Director Deborah Taylor Tate, and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 17, 2005, for consideration of the *Petition of Xpedius Management Co. Switched Services LLC for Expedited Review of Central Office Code Denial* filed by Xspedius Management Co. Switched Services, LLC ("Xspedius") on September 6, 2005.

BACKGROUND

In March of 2000, the Federal Communications Commission ("FCC"), recognizing "the near-crisis" caused by the exhaustion of telephone numbers in certain expanding geographic areas, initiated a policy designed "to slow down the rate at which central office codes (or NXXs) in those areas are assigned to carriers."¹ Among other things, the FCC adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and provide

¹ *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd. 7574, 7578, ¶ 2, 7658, ¶ 183, 7661-7662, ¶ 191 (2000) (hereinafter "*First Report and Order*"), see also 47 U.S.C. § 251(e)(1) (2004) (directing the FCC to "create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis")

incentives to use numbers efficiently.² Under this policy, carriers seeking additional numbering resources must apply to the North American Numbering Plan Administration (“NANPA”) “or another entity or entities, as designated by the Commission,” for a decision as to whether to allocate the numbers.³

On June 18, 2001, the FCC designated NeuStar, Inc. (“NeuStar”) as the national thousands-block number Pooling Administrator.⁴ NeuStar, which is also serving as the NANPA, currently administers thousands-block number pools by assigning, managing, forecasting, reporting, and processing data that will allow service providers in areas designated for thousands-block number pooling to receive telephone numbers in blocks of 1,000. In order to facilitate efficient telecommunications services in the Nashville rate center, the 615 Area Code was converted to Number Pooling on March 14, 2002. Thus, telecommunications service providers participating in number pooling in the 615 area are required to submit their requests for additional numbering resources to the Pooling Administrator. The projected exhaust date for the 615 Numbering Plan Area (“NPA”) is the Fourth Quarter of 2011.

On August 15, 2005, Xspedius requested a full NXX required to establish a Location Routing Number (“LRN”) for a new Local Number Portability capable switch being installed in the Nashville Rate Center. NANPA, citing Xspedius’ failure to meet its NXX Assignment Guidelines, denied Xspedius’ request on August 15, 2005. The guidelines require that a rate center must have a 75% utilization rate and that its estimated exhaust date not exceed six months. Xspedius could not meet these guidelines because the Nashville Rate Center has a 62.4% percent utilization rate.

On September 6, 2005, Xspedius filed with the Authority its *Petition for Expedited Review of Central Office Code Denial*. Xspedius asserts that the “NPA-NXX requested by this petition is

² See *First Report and Order*, 15 FCC Rcd at 7594, ¶ 40-41, 7609-7610, ¶ 84, 7615, ¶ 97-98

³ See 47 C.F.R. § 52.15(a) (2004), see also *First Report and Order*, 15 FCC Rcd at 7647-7640, ¶¶ 143-48 (providing background on the development of the pooling administrator)

⁴ *Numbering Resource Optimization*, CC Docket No. 99-200, *Third Report and Order and Second Order on Reconsideration*, 17 FCC Rcd. 252, 258 ¶ 11 (2001) (hereinafter “*Third Report and Order*”), see also 47 C.F.R. § 52.15(a) (2004)

necessary so that Xspedius can establish and assign an LRN to its new Nashville, Tennessee switch.”⁵ Xspedius requests that the Authority reverse the Pooling Administrator’s denial of its application and order the release of numbering resources.⁶

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Review by the TRA of the NeuStar Administration’s denial of Xspedius’ application is authorized by the FCC.⁷ According to the FCC:

We agree with the commenting parties that a safety valve mechanism should be established, and we delegate authority to state commissions to hear claims that a safety valve should be applied when the NANPA or Pooling Administrator denies a specific request for numbering resources. State commissions should only apply a safety valve mechanism as a last resort and, to the extent possible, use it as a stop gap measure to enable carriers in need of additional numbering resources to continue to serve their customers. We adopt one specific safety valve to address the numbering resource requirements of carriers experiencing rapid growth in a given rate area. We also clarify that states may grant requests by carriers that receive a specific customer request for numbering resources that exceeds their available inventory. Finally, we give states some flexibility to direct the NANPA or Pooling Administrator to assign additional numbering resources to carriers that have demonstrated a verifiable need for additional numbering resources outside of these specifically enumerated instances.⁸

State commissions conducting this review must act consistently with the FCC’s policy of facilitating fair and efficient numbering administration in the United States and ensuring that numbering resources are available to all telecommunications service providers on a fair and equitable basis.⁹

At a regularly scheduled Authority Conference held on October 17, 2005, the voting panel assigned to this docket considered Xspedius’ *Petition for Expedited Review of Central Office Code Denial*. After consideration of the record, the public interest, and this agency’s responsibility to

⁵ *Petition of Xpedius Management Co Switched Services LLC for Expedited Review of Central Office Code Denial*, p 3 (September 6, 2005)

⁶ *Id*

⁷ *Third Report and Order*, 17 FCC Rcd at 280-281, ¶ 61; *see also* 47 C.F.R. § 54.15(g)(3)(iv) (2004)

⁸ *Third Report and Order*, 17 FCC Rcd. at 280-281, ¶ 61


⁹ *See, e.g., Numbering Resource Optimization*, CC Docket No. 99-200, *Order*, 16 FCC Rcd. 15842, 15847, ¶ 8 (2001) (“[T]he state commissions, to the extent that they act under the authority delegated herein, must ensure that numbers are made available on an equitable basis, that numbering resources are made available on an efficient and timely basis, that whatever policies the state commissions institute with regard to numbering administration not unduly favor or disfavor any particular telecommunications industry segment or group of telecommunications consumers, and that the state commissions not unduly favor one telecommunications technology over another.”), *see FCC Announces GSA Approval of North American Numbering Council Through October 4, 2003*, CC Docket No. 92-237, *Public Notice*, 16 FCC Rcd 18502 (2001)

permit competition in the telecommunications industry,¹⁰ the panel voted unanimously to overturn the Pooling Administrator's denial of Xspedius' numbering request, and ordered the Pooling Administrator to grant the request and assign one NPA-NXX to Xspedius for the Nashville Rate Center, Switch Identification NSVOTNAODSO, to establish a Local Routing Number.

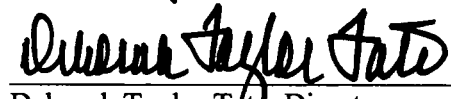
IT IS THEREFORE ORDERED THAT:

1. The *Petition of Xpedius Management Co. Switched Services LLC for Expedited Review of Central Office Code Denial* filed by Xspedius Management Co. Switched Services, LLC is granted.

2. The Pooling Administrator's decision to deny Xspedius Management Co. Switched Services, LLC's request for a NPA-NXX for the Nashville Rate Center is reversed as stated herein.



Ron Jones, Chairman



Deborah Taylor Tate, Director



Sara Kyle, Director

¹⁰ See Tenn. Code Ann. § 65-4-123 (2004)